

REPORT OF THE  
1989 - 1990  
GAMING ADVISORY COUNCIL

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MAYOR RUSS RITTER,  
VICE CHAIRMAN

SEN. DELWYN GAGE

COUNTY ATTORNEY  
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BARRY FIGG\*\*\*

\*REPLACED HAROLD MONTEAU, SEPTEMBER 1990

\*\*REPLACED WALLACE BRUCE McLEAN, SEPTEMBER 1990

\*\*\*REPLACED STEPHEN NELSON, SEPTEMBER 1990

STAFF ASSISTANCE PROVIDED BY:

GAMBLING CONTROL DIVISION  
DEPARTMENT OF JUSTICE



December 30, 1990

Hon. Marc Racicot, Attorney General  
Third Floor, Justice Building  
215 North Sanders  
Helena, Montana 59620

Dear Attorney General Racicot:

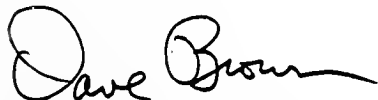
In compliance with 2-15-2021, MCA, we submit the following report of the 1989-1990 Gaming Advisory Council.

This report summarizes the deliberations and activities of the Gaming Advisory Council from August 1989 through October 1990 and presents recommendations for revising the state's gambling laws. During this 15-month period, the Council served as a forum for discussion and debate on the major gambling issues facing Montana today. Our recommendations were developed after hearing hours of testimony from a spectrum of interests and receiving input and advice from the Gambling Control Division.

We are grateful to the many individuals and groups who attended and actively participated in our public hearings and work sessions. We also extend our thanks for the cooperation and assistance received from you and your staff at the Gambling Control Division.

It has been an honor for us to serve the State of Montana as members of the Gaming Advisory Council.

Sincerely,

A handwritten signature in cursive script that reads "Dave Brown". The signature is written in dark ink and is positioned below the word "Sincerely,".

Representative Dave Brown, Chairman  
Gaming Advisory Council



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## I. INTRODUCTION

In 1989, the Montana Legislature adopted Senate Bill No. 431 (Chapter 642, Laws of Montana), a comprehensive revision of the state's gambling laws. In large part, the bill's provisions reflected the recommendations of a gaming advisory council that was appointed in 1988 by the director of the Montana Department of Commerce. Senate Bill No. 431 centralized regulation and control of all gambling activities, except for the Montana State Lottery and parimutuel betting, under the Department of Justice. The bill received solid support from both houses of the Legislature. The House of Representatives voted 85 to 13 in favor of the final version of the bill; the Senate vote was 43 to 7.

In addition to centralizing gambling regulation, Senate Bill No. 431 provided for appointment of the Gaming Advisory Council. The statutory duties assigned to the Council were multi-fold: to hold meetings and incur necessary expenses to study all aspects of gambling in Montana; to review and comment on administrative rules proposed by the Department; and to submit an annual report to the Department of Justice and the Legislature with recommendations regarding the state's gambling laws and the Department's administrative rules and operations.

By law, the Council was required to consist of nine members: one member each from the Senate and House of Representatives, one public member, two local government representatives, a Native American representative, and three gaming industry representatives. The Senate Committee on Committees and the Speaker of the House were authorized to appoint the legislators to the Council, while the remaining members were to be selected by the Attorney General. To provide for staggered terms, three appointees to the first Council were to serve one-year terms, three (including both legislators) were to serve two-year terms, and three were to

serve three-year terms. Persons appointed upon completion of the initial terms would serve three years each.

The initial appointments to the Gaming Advisory Council were completed in July 1989. Representative Dave Brown and Senator Delwyn Gage were appointed as the legislative representatives; Wallace Bruce McLean as the public member; County Attorney Robert Deschamps III and Mayor Russell Ritter as local government representatives; Harold Monteau as the Native American representative; and Kent Frampton, James Gusick, and Stephen Nelson as gambling industry representatives. In September 1990, the Attorney General appointed Tom Acevedo, Barry Figg, and Linda Vaughey to replace Messrs. Monteau, Nelson, and McLean, respectively, who had completed their one-year terms.

During the 1990-1991 biennium, the Gaming Advisory Council met eleven times. Initial meetings were devoted to gaining a working knowledge of the state's gambling laws and the operations of the Gambling Control Division of the Department of Justice. Following this orientation, members spent time monitoring the Division's rulemaking process. Subsequent meetings were devoted to identifying gambling issues and to developing legislative proposals to address these issues.

The remainder of this report reviews the Gaming Advisory Council's deliberations and activities and summarizes the Council's proposed legislation. Additional information on the work of the Council, including staff reports and meeting minutes, is available through the Gambling Control Division, 2687 Airport Road, Helena, Montana 59620.

## **II. COUNCIL DELIBERATIONS AND ACTIVITIES**

The Gaming Advisory Council began its work for the 1990-1991 biennium in August 1989 and made its final recommendations in December 1990. During this period, members held eleven meetings. Seven of the meetings were conducted in Helena; the remainder were held in Great Falls, Missoula, Billings, and Butte.

This chapter provides a brief overview of the Council's deliberations and actions during the 1990-1991 biennium. A detailed account of each meeting is contained in the meeting minutes, which are on file with the Gambling Control Division.

### **A. ORIENTATION/EDUCATIONAL SESSIONS**

The Gaming Advisory Council's first meeting was an orientation session held in August 1989 in Helena. Members were introduced to the various operations of the Gambling Control Division and received an overview of the state's gambling laws. In addition, the Council reviewed emergency administrative rules proposed by the Division. These rules addressed issuance of gambling operator and card dealer licenses, poker rules, card game tournaments, successive keno games, and sports pools. Also during the meeting, members selected Representative Dave Brown and Mayor Russ Ritter as chairman and vice chairman, respectively.

In October 1989, the Council met in Helena for its second meeting. The Gambling Control Division staff presented a report on the status of illegal gambling in the state. Following the report, Council members questioned the Attorney General and Division staff about their interpretation as to the types of gambling activities that were permissible under state law as amended by the 1989 Legislature. An update on state-tribal gambling compact negotiations and a status report on the

development of live bingo and keno recordkeeping and tax reporting requirements were also presented. Additionally, Division staff demonstrated several tests that are performed on video gambling machines as part of the Division's machine examination and approval process.

#### **B. OVERSIGHT OF DIVISION'S RULE ADOPTION**

The Council's third meeting was held in Helena on the day after the December 1989 public hearing on the Gambling Control Division's second set of proposed rules. These rules were similar to the emergency rules that were adopted in September without a public hearing. Division staff summarized comments received at the rules hearing. Staff then reviewed a third set of proposed rules that covered video gambling machine specifications, manufacturer-distributor license requirements, recordkeeping and tax reporting requirements for live bingo and keno games, and provisions governing raffles and Calcutta pools. The proposed live bingo and keno game rules generated the most discussion; some Council members and gambling industry representatives voiced concern about the complexity of the rules. The Division responded that the rules were necessary to protect the integrity of tax revenues.

Also at the December meeting, Division staff discussed guidelines for conducting carnival games during the 1990 fair and carnival season. These guidelines were being developed by the Division in conjunction with fair and carnival industry representatives. The primary purpose of the guidelines, according to the Division, was to ensure that illegal games of chance were not conducted.

In January 1990, members convened in Helena for their fourth meeting. This meeting was held in conjunction with the public hearing on the Division's third set of proposed administrative rules. In response to the proposed rules, gambling industry

representatives again expressed their view that the live bingo and keno recordkeeping and tax reporting requirements were unreasonable and burdensome.

Later in the meeting, the Attorney General explained the Division's enforcement policies and fielded questions from Council members. The Council also heard from some tavern owners who believed the Division's enforcement actions were excessive and unnecessary on occasion. The Division's position was that its response to gambling violations was in direct proportion to the nature and severity of the offenses.

### **C. PUBLIC HEARINGS AND REVIEW OF GAMBLING ISSUES**

Beginning with the fifth meeting, the Council's major focus shifted from monitoring the rule adoption process and Division activities to identifying issues for further study and legislative action. The next three meetings, which were conducted outside Helena, shared a common format: a public hearing followed by a Council work session. Before each meeting, a news release was issued urging public participation, and letters of invitation were mailed to county and city commissioners, sheriffs, police chiefs, legislators, and tribal officials. Word of the meetings spread, and the public hearings were well attended.

Members traveled to Great Falls for the March 1990 meeting. At the morning session, the Council solicited public comment on gambling issues. Several issues were discussed including the social impacts of gambling, carnival and amusement games, gambling conducted by veterans' and fraternal organizations, raffles, and gambling expansion. Representatives from local treatment centers that provide services to persons with addictive behaviors urged the Council to fund treatment programs for compulsive gamblers. Advocates for expanded gambling recommended

legalizing the card game of Blackjack or Twenty-one. Following the public hearing, the Council directed staff to prepare preliminary bill drafts on several issues that were identified during the hearing.

In April 1990, the Council met in Missoula. During the evening public hearing, support for legalizing Blackjack was repeatedly voiced by tavern owners and gambling industry representatives. Other issues that were addressed included treatment for compulsive gamblers, a proposal for reserving certain forms of gambling for nonprofit or charitable organizations, and public disclosure of certain license and permit application information.

The next day, members began their work session with an update on state-tribal gambling compact negotiations. The remainder of the meeting was spent reviewing a checklist of 40 issues for legislative revision that were identified by the Gambling Control Division, Gaming Industry Association, Montana Tavern Association, and Montana Coin Machine Operators Association. The Council heard testimony on each issue from interested persons and groups, debated the proposed revision among themselves, and approved, rejected, or postponed action on each proposal. Staff was then directed to draft legislation to implement the approved proposals.

The Council selected Billings for its May 1990 meeting. During the evening public hearing, several members of a Billings Gamblers Anonymous chapter related their struggles with compulsive gambling and discussed the emotional, financial, and familial consequences of their addictions. Other issues that were addressed included placement of video gambling machines, gambling on Indian reservations, expansion of sports pools, operation of gambling activities by local governments, and legalization of Blackjack.

The next morning, the Council reviewed an expanded checklist of issues for legislative revision. This checklist included suggestions from persons who had testified during the public hearings or who had mailed comments to the Council. Later that morning, the Council heard two presentations on compulsive gambling. A psychotherapist who treats addictive behaviors and a director of an addiction treatment center provided a profile of the compulsive gambler, presented national statistics on compulsive gambling, and described methods used to treat the addiction. Following the presentations, members completed their review of the draft legislation checklist and directed staff to prepare legislation on the approved proposals. The Council also approved in concept legalization of Blackjack.

#### **D. DEVELOPMENT OF DRAFT LEGISLATION**

At the Butte meeting in July 1990, the Council began the arduous task of sifting through a 60-page report containing background data and draft legislation. Before acting on each proposed statutory change, comments were solicited from the audience. Among the 32 proposals under consideration, the Council approved 18 proposals, amended and approved six, rejected three, and postponed action on five. The vast majority of the votes on the statutory proposals (i.e., 75 percent) were unanimous. (A list describing the draft legislation considered by the Council in July, September, and October is contained in Appendix B. A vote on each item is included.)

The Council returned to Helena in September 1990 for its ninth meeting. The meeting opened with an informational session on Blackjack. Gambling Control Division staff presented reports on the regulation of Blackjack in North Dakota and Nevada. Representatives from the gambling and tavern industries also provided data on the game as it is played in North and South Dakota, Washington, and the Canadian provinces. In addition,

several persons expressed their personal opinion on whether Blackjack should be legalized and speculated on the positive and negative consequences of legalization. Following this discussion, Council members directed staff to draft for their consideration a bill legalizing Blackjack. In the afternoon, the Council reviewed draft legislation that was tabled or postponed at the July meeting and considered some new bill drafts.

The Council's tenth meeting was held in October 1990 in Helena. The morning was reserved for an informational session on compulsive gambling. The chairman of the Montana Board of Pardons, a financial counselor, two recovering compulsive gamblers, a banker, and a certified chemical dependency counselor shared their perspectives on problems facing compulsive gamblers and their families and communities. Several individuals also testified on the potential negative impacts of expanded gambling. Following the informational session, the Council directed staff to draft a proposal for providing treatment services for compulsive gamblers. The remainder of the meeting was devoted to acting on remaining legislative proposals, including refining the bill legalizing Blackjack.

NOTE: The Gaming Advisory's final meeting was held December 11, 1990 in Helena. An account of action taken at this meeting will appear as an addendum to this report.



### III. SUMMARY OF COUNCIL LEGISLATION

The work of the 1989-1990 Gaming Advisory Council culminated in a comprehensive bill draft revising the state's gambling laws. Several sections of the Council's bill consist of technical amendments clarifying existing provisions. Other sections remedy perceived deficiencies in the law. Additionally, some sections expand authorized forms of gambling or legalize new games of chance.

Major provisions in the Gaming Advisory Council's legislation include:

- allowing public disclosure of certain license and permit application information;
- authorizing the Department of Justice to issue warrants for distraint against gambling operators who fail to make tax payments;
- creating a misdemeanor offense for possessing a per se illegal gambling device or conducting a per se illegal gambling enterprise;
- requiring proration of permit fees and creating a seasonal operator's license;
- providing for card game tournaments;
- exempting certain organizations and facilities from the live bingo and keno permit fee;
- eliminating the live bingo and keno tax and restructuring the live bingo and keno permit fee;
- expanding the sports pools law; and
- authorizing the live card game of Blackjack, video gambling machine promotional tournaments, crane games, limited wagering in public places, and fantasy sports leagues.

The following chapter summarizes according to subject matter the provisions of the Council's legislation. A copy of the bill is contained in Appendix C.

## **A. LIVE CARD GAMES**

**Card game tournaments.** Section 31 is a new code section defining the conditions under which a card game tournament may be conducted. It includes limits on the number and duration of tournaments, permit and card table requirements, and provisions governing participant fees and prizes. Sections 16 through 21 and section 23 amend 23-5-306, 23-5-308, 23-5-309, and 23-5-312, MCA, to exempt tournaments from certain statutory requirements that apply to card games in general.

**Social card games.** Sections 16 through 21 exempt the live card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist from the card game table permit fee requirement (23-5-306, MCA) and the requirement that these games be played in the presence and under the control of a licensed dealer (23-5-308 and 23-5-309, MCA). In addition, an amendment to 23-5-313, MCA, in section 24 prohibits an operator conducting such card games from taking a rake-off or collecting any form of remuneration from a player.

## **B. LIVE BINGO AND KENO GAMES**

**Authorized equipment.** The amendments to 23-5-112(3), (4), and (15) in section 2 remove the Department of Justice's responsibility for inspecting live bingo and keno equipment by striking the definition of "authorized equipment" and by removing the reference to authorized equipment in the definitions of bingo and keno.

**Exempt organizations.** Section 32 amends 23-5-406, MCA, to clarify existing exemptions to the live bingo and keno tax. In addition, an exemption from payment of the tax is extended to: (1) fraternal and veterans' organizations granted an exemption under 26 U.S.C. 501(c)(8) or (c)(19); (2) nursing homes; (3)

retirement homes; and (4) senior citizen centers.

**Keno way tickets and payouts.** Section 34 amends 23-5-412, MCA, to: (1) increase the maximum payout per keno card to \$800; and (2) authorize the use of way tickets in keno games, subject to the bet and payout limits. Way tickets permit a player to select three or more numbers on a single card, place bets on various combinations of these numbers, and receive payouts on winning combinations.

**Permit fee and taxes.** Section 33, which amends 23-5-407, MCA, replaces the \$500 annual permit fee for the operation of a live bingo or keno game with: (1) a \$250 permit fee for operating live keno games; and (2) a tiered permit fee structure for operating live bingo games. The bingo fees range from \$250 to \$3,000, depending on the number of players. Section 69 repeals the tax on live bingo and keno games (23-5-409, MCA).

### **C. RAFFLES**

**Definition.** The amendment to 23-5-112(29), MCA, in section 2 redefines the term "raffle". This revision is patterned after the raffle definition contained in the Gambling Control Division's administrative rules.

**Participation by minors.** The amendments to 23-5-158, MCA, in section 10: (1) permit minors to participate in certain types of raffles; (2) prohibit minors from participating in all other forms of gambling; and (3) provide a penalty for violations.

**Raffle requirements.** The amendments in section 35 rearrange and clarify certain raffle provisions contained in 23-5-413, MCA. They also prohibit a board of county commissioners from charging a permit fee or an investigative fee for a raffle conducted by a religious corporation sole or nonprofit organization. In

addition, the amendments require a person or organization, other than a religious corporation sole or nonprofit organization, to own in advance of ticket sales all prizes to be awarded as part of the raffle.

In section 2, a definition of the term "nonprofit organization" is added to the general definition section in 23-5-112(22), MCA. In section 36, this same definition is removed from the provisions governing sports pools (23-5-501, MCA). By adding the definition to the general definition section and removing it from the sports pools section, a single, consistent definition of nonprofit organization is applied to both raffles and sports pools.

#### **D. VIDEO GAMBLING MACHINES**

**Machine placement.** The amendment to 23-5-603, MCA, in section 40 requires video gambling machines to be placed in a location where alcohol is permitted to be sold or consumed as determined by the Department of Revenue when issuing a liquor license. Furthermore, the machines must be within sight and control of the operator or his/her employees to restrict access by minors.

**Internal quota.** Section 43 amends 23-5-611(3), MCA, by removing the 10-machine limit on draw poker machines. The cap of 20 video gambling machines per premises is retained.

**Machine specifications/bill acceptors.** Section 45 amends 23-5-621, MCA, by striking the requirement that the rules adopted by the Department of Justice on video gambling machine specifications substantially follow the statutory specifications in effect on September 30, 1989. This section also lists minimum standards for the machine specifications. The specifications must permit a machine to contain a mechanism that accepts \$10 and \$20 bills.

**Machine Sales.** The amendments to 23-5-625, MCA, in section 46 prohibit a manufacturer-distributor from selling a video gambling machine to any person other than another manufacturer-distributor or an operator. It also provides that an operator or a lien holder (e.g., a financial institution) may sell machines subject to certain restrictions.

**Payouts.** The amendment to 23-5-608, MCA, in section 41 increases the maximum payout for a game of video draw poker from \$100 to \$800 to match the video bingo and keno game payout limits.

#### **E. LICENSES AND PERMITS**

**Grandfather provisions.** Sections 16, 17, and 43 amend 23-5-306 and 23-5-611, MCA, to allow renewal of live card game table and video gambling machine permits for a "grandfathered" establishment if: (1) the majority of the natural persons holding a financial interest in the establishment remain the same; or (2) a spouse or child acquires controlling financial interest in the establishment. A "grandfathered" establishment is an establishment that operated live card games or video gambling machines on January 15, 1989, but did not have a liquor license.

**Multiple Liquor Licenses.** Section 13 amends 23-5-177, MCA, to permit only one gambling operator's license to be issued for a premises, regardless of the number of liquor licenses issued for that premises.

**Seasonal operator's license.** Section 15 is a new code section authorizing the Department of Justice to issue a six-month seasonal operator's license to any person who chooses to operate a gambling activity for six months or less during any 12-month period. Fees for permits issued under a seasonal operator's license cost one-half the amount charged for permits issued under

a regular operator's license. In addition, sections 16, 17, 33, and 44 amend 23-5-306, 23-5-407, and 23-5-612, MCA, to adjust for the seasonal operator's license.

**Proration of permit fees.** Sections 16, 17, 33, and 44 amend 23-5-306, 23-5-407, and 23-5-612, MCA, to allow annual permits for live card game tables, live bingo and keno games, and video gambling machines to be prorated on a quarterly basis.

**Public disclosure of applicant information.** Section 5 amends 23-5-115, MCA, to permit the Department of Justice to publicly release the following information concerning gambling license and permit applications: (1) name of the person applying for a license or permit; (2) address of the establishment where the gambling activity is to be conducted; (3) name of persons with an ownership interest in the establishment; and (4) types of permits requested.

**Local government prohibition.** Section 14 is a new code section prohibiting the Department of Justice from issuing a gambling operator's license to a city, county, or other political subdivision or to a person or entity who has leased a local government's liquor license unless: (1) the local government entity has obtained a golf course beer and wine license or an airport all-beverages license; or (2) an individual or entity has leased such license from the local government.

## **F. TAXES**

**Tax terminology.** Sections 39 and 42 amend 23-5-602(5) and 23-5-610, MCA, to change the name of the video gambling machine tax from a net income tax to a gross income tax.

**Warrants for distraint.** The amendment to 23-5-136(2) in section 7 permits the Department of Justice to issue a warrant for

distrain against an operator who fails to pay a civil penalty imposed by the Department or the video gambling machine tax. When issuing and executing a warrant, the Department must follow the same procedural requirements imposed on the Department of Revenue in 15-1-701 through 15-1-709, MCA.

## **G. VIOLATIONS**

**Penalties, fines, and forfeiture distribution.** The amendments to 23-5-123 and 23-5-136(3) in sections 6 and 7 require penalties, fines, and forfeitures collected in a criminal proceeding for violation of a gambling statute or Department of Justice rule to be distributed in the same manner as penalties, fines, and forfeitures collected in justice or district court (i.e., in accordance with 3-10-601 and 46-18-235, MCA). In addition, two-thirds of the money collected through a civil or administrative proceeding must be distributed to the local government where the violation occurred and the remainder to the Gambling Control Division. Sections 49 and 50 amend 17-7-502, MCA, to provide for the statutory appropriation of the local government portion of the administrative penalty payments.

**Soliciting persons to play illegal devices.** Section 9 amends 23-5-154, MCA, to make it a misdemeanor offense for a person to solicit another person to participate in an illegal gambling enterprise.

**Per se illegal gambling devices and enterprises.** Section 2 amends 23-5-112, MCA, by defining per se illegal gambling device or enterprise. Section 8 is a new section that makes it a misdemeanor offense for a person to possess a per se illegal gambling device or to operate a per se illegal gambling enterprise. This section also provides examples of per se illegal gambling devices and enterprises.

**Felony penalties.** Section 11 amends 23-5-162, MCA, to require the Department of Justice to revoke all gambling licenses and permits issued to a person convicted of a felony gambling offense.

## **H. EXPANSION OF GAMBLING**

**Blackjack.** Section 3 amends 23-5-112, MCA, to provide definitions of "Blackjack" and "drop" and to modify the definition of "live card game" or "card game". Section 22, amending 23-5-311, MCA, adds Blackjack to the list of card games that are legal in Montana. Sections 25 through 30 are new code sections that: (1) limit the number of Blackjack tables to five per premises; (2) require a \$1,000 permit fee for each table; (3) impose a one percent drop tax on Blackjack operations; (4) require certain equipment for Blackjack tables; (5) prohibit cash wagers and cash gratuities; (6) limit the initial wager to \$10; and (7) require the Department of Justice to adopt rules governing Blackjack. Sections 17, 19, and 21 amend 23-5-306, 23-5-308, and 23-5-309, MCA, to apply certain live card game provisions to Blackjack. Sections 12, 51, and 52 amend 23-5-176, 37-1-203, and 37-1-205, MCA, to modify the qualifications for obtaining an operator or card dealer license. The Blackjack provisions become effective January 1, 1992 under section 73.

**Fantasy sports leagues.** Sections 54 through 58 are new code sections that: (1) define "fantasy sports leagues"; (2) legalize conducting of fantasy sports leagues; (3) apply certain restrictions; (4) prohibit sports betting; and (5) provide misdemeanor penalties for violations.

**Sports pools.** Section 36 amends 23-5-501, MCA, to broaden the definition of sports pool. Section 37 is a new code section that: (1) sets criteria for the design of a sports pool; (2) authorizes the Department of Justice to adopt rules describing



authorized sports pools; and (3) prohibits use of an illegal gambling device in conducting a pool. Section 38 amends 23-5-503, MCA, to limit the maximum bet and payouts to \$5 and \$500, respectively and to place certain prohibitions on persons or organizations conducting a sports pool to ensure that the pool is used as a trade stimulant only.

**Wagering in public places.** Section 53 is a new code section that permits two or more persons in a public place to wager on the outcome of any contest, subject to certain restrictions. These bets may be held by a gambling operator until completion of the contest.

**Video gambling machine promotional tournaments.** Section 48 is a new code section that allows a licensed operator to apply to the Department of Justice for a permit to conduct a video gambling machine promotional tournament. No entrance fee may be charged to participate in a promotional tournament, and prizes awarded to tournament winners may exceed the \$800 maximum payout on video gambling machines. In addition, sections 39, 46, and 47 amend 23-5-602, 23-5-625, and 23-5-631, MCA, to: (1) define "promotional device" and "promotional tournament"; (2) permit only a licensed manufacturer-distributor to produce or supply a promotional device; and (3) require a promotional device to be examined and approved by the Department of Justice.

## **I. MISCELLANEOUS ISSUES**

**Prohibited employee activities.** Section 4 amends 23-5-114, MCA, to: (1) remove reference to peace officers and prosecutors involved in prosecuting, investigating, regulating, or licensing gambling activities; (2) exclude county attorneys from prohibited activities; (3) delete the prohibition against receiving a profit of a gambling activity regulated by the Department of Justice; (4) prohibit an employee from

participating in horseracing, the Montana lottery, and gambling activities regulated by the Department; and (5) clarify prohibited activities for former employees.

**Crane games.** Sections 59 through 68 are new code sections that: (1) define a crane game; (2) require a person to obtain a crane game operator license and permit before making a crane game available for public play in Montana; (3) impose certain requirements on the operation of crane games; (4) authorize the Department of Justice to adopt rules governing crane games; (5) prohibit local governments from regulating the games; (6) create a misdemeanor penalty for violating the crane game provisions; and (7) provide administrative remedies for addressing violations. Section 1 amends 23-5-112, MCA, to exempt crane games from the definition of gambling. Under section 73, the crane game provisions become effective upon passage and approval.

## APPENDIX A

### STATUTES GOVERNING GAMING ADVISORY COUNCIL (MONTANA CODE ANNOTATED)

2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- annual report. (1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office, except that three of the first-appointed original members shall serve a 1-year term, three (including both legislative members) shall serve a 2-year term, and three shall serve a 3-year term. A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman from its members.

(6) Legislative members of the gaming advisory council are entitled to compensation and expenses, as provided in 5-2-302, while the council is meeting. The remaining members are entitled to travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8)(a) The gaming advisory council shall submit an annual report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The annual report required under subsection (8)(a) must be affixed to the annual department report on gambling in the state. The department and council shall submit the two most recent department and council reports to each of the next two regular sessions of the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(9) The department shall give each council member notice and a copy of each proposed change in administrative rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council shall review the proposal, may comment on it, and may attend any hearing on the proposal. The department shall consider any comment by any council member or by the council as a whole prior to adopting the proposed change.

## APPENDIX B

### LEGISLATIVE PROPOSALS CONSIDERED BY GAMING ADVISORY COUNCIL

The following is a list of proposed legislative changes that were considered by the Gaming Advisory Council in July, September, and October. The Council's action on each proposal is indicated.

#### I. Live Card Games

Card game tournaments. Allow card game tournaments to be conducted without meeting certain requirements pertaining to card games in general

COUNCIL ACTION: Approved as amended (8-0 vote)

Social card games. Eliminate permit fee for social card games and requirement that licensed dealer be present

COUNCIL ACTION: Approved as amended (8-0 vote)

Live card games. Replace \$300 pot limit with limits on bets and raises

COUNCIL ACTION: Proposal withdrawn

#### II. Live Bingo and Keno Games

Authorized equipment. Remove Department's responsibility for inspecting and certifying live Bingo and Keno equipment

COUNCIL ACTION: Approved (8-0 vote)

Exempt organizations. Clarify tax and permit fee exemptions for 501(c)(3) and 501(c)(4) organizations and extend exemption to nursing homes and retirement homes

COUNCIL ACTION: Approved (7-1 vote)

Extend tax and permit fee exemptions to 501(c)(8) and 501(c)(19) organizations and senior citizen centers

COUNCIL ACTION: Approved (9-0 vote)

Keno way tickets and payouts. Allow way tickets to be played in Keno games and increase maximum payout in live Keno game to \$800

COUNCIL ACTION:        Approved (8-0 vote)

Permit fee and taxes. Replace current \$500 fee for live Keno with \$250 fee; replace current \$500 fee for live Bingo with fee dependent on number of players; eliminate net and gross proceeds tax

COUNCIL ACTION:        Approved (7-1 vote)

### III. Raffles

Definition. Revise definition of raffle to match definition in rule

COUNCIL ACTION:        Approved (8-0 vote)

Participation by minors. Permit minors to buy and sell raffle tickets and receive prizes and hold minors liable for participating in gambling activity

COUNCIL ACTION:        Approved (7-1 vote)

Raffle requirements. Clarify requirements for conducting raffles

COUNCIL ACTION:        Approved as amended (8-0 vote)

Charitable/nonprofit raffles. Require persons conducting commercial raffles to obtain permit from Department

COUNCIL ACTION:        Rejected (8-0 vote)

### IV. Video Gambling Machines

Machine placement. Clarify where machines may be placed on a premises licensed to sell alcoholic beverages for on-premises consumption

COUNCIL ACTION:        Approved (8-0 vote)

Internal quota. Eliminate 10-machine internal quota on video poker machines and allow operators to "mix-and-match" machine types within 20-machine limit

COUNCIL ACTION:        Approved (8-0 vote)

Restrictions on machine specifications. Remove requirement that rules providing specifications for authorized video gambling

machines follow specifications provided by law on September 30, 1989

COUNCIL ACTION:       Approved (5-0 vote)

Bill acceptors. Permit machines to be equipped with bill acceptors for \$10 and \$20 bills

COUNCIL ACTION:       Approved (6-2 vote)

Machine sales. Restrict sales of video gambling machines to licensed operators and licensed distributors

COUNCIL ACTION:       Approved (8-0 vote)

Payouts. Increase maximum payout on video draw poker games to \$800

COUNCIL ACTION:       Approved (8-0 vote)

#### V. Licenses and Permits

Grandfather provisions. Prohibit corporation that was permitted, under a grandfather clause, to operate live card games or video gambling machines without a liquor license to continue to operate without a liquor license if the corporate shareholders change

COUNCIL ACTION:       Approved (8-0 vote)

Multiple liquor licenses. Permit the Department of Justice to issue only one operator's license for a premises, regardless of the number of on-premises alcoholic beverage licenses issued for the premises

COUNCIL ACTION:       Approved (4-2 vote)

Proration/seasonal license. Prorate gambling permit fees and provide for a seasonal operator's license and permits

COUNCIL ACTION:       Approved (8-0 vote)

Applicant information disclosure. Authorize release to the public of certain information concerning applicants for gambling licenses and permits

COUNCIL ACTION:       Approved (6-3 vote)

Local government prohibition. Prohibit local governments from

operating live card games, live bingo and keno games, and video gambling machines

COUNCIL ACTION: Approved (8-0 vote)

## **VI. Taxes**

**Tax terminology.** Revise terms used in gambling tax statutes

COUNCIL ACTION: Approved as amended (8-0 vote)

**Warrants for distraint.** Authorize Division to issue warrants for distraint to facilitate tax collection

COUNCIL ACTION: Approved (7-1 vote)

## **VII. Violations and Penalties**

**Penalties, fines, and forfeiture distribution.** Allow cities to receive portion of revenue and revise other distribution provisions

COUNCIL ACTION: Approved (8-0 vote)

**Soliciting persons to play illegal gambling device.** Expand violation to include soliciting persons to participate in illegal gambling enterprises

COUNCIL ACTION: Approved (7-1 vote)

**Per se illegal devices/enterprises.** Define per se illegal gambling device and enterprise and provide that possession of a per se illegal gambling device or conducting a per se illegal gambling enterprise is a misdemeanor

COUNCIL ACTION: Approved as amended (5-4 vote)

**Misdemeanor penalties.** Eliminate redundancies and clarify misdemeanor penalties section

COUNCIL ACTION: Proposal withdrawn

**Felony penalties.** Include in felony penalties statute a provision for loss of permit and license similar to provision in misdemeanor statute

COUNCIL ACTION: Approved (8-0 vote)



## VIII. Expansion of Gambling

**Blackjack.** Legalize the live card game of blackjack

COUNCIL ACTION:        Approved

**Fantasy sports leagues.** Legalize fantasy football, baseball, basketball, etc.

COUNCIL ACTION:        Approved as amended (8-0 vote)

**Sports pools.** Expand sports pool law to permit different forms of wagering within existing betting and payout restrictions

COUNCIL ACTION:        Approved as amended (6-0)

**Wagering in public places.** Permit two or more persons to wager in a public place and allow an operator to hold bets

COUNCIL ACTION:        Approved (7-1 vote)

**Video gambling machine promotional tournaments.** Permit operator to conduct promotional tournaments using video gambling machines

COUNCIL ACTION:        Approved (6-3 vote)

**Casino nights.** Permit nonprofit organizations to conduct casino nights

COUNCIL ACTION:        Rejected (5-3 vote)

## XI. Miscellaneous

**Prohibited activities for Department employees.** Clarify reference to "profit" and other provisions concerning prohibited activities

COUNCIL ACTION:        Approved as amended (6-2 vote)

**School athletic events.** Prohibit gambling on elementary and high school athletic events

COUNCIL ACTION:        Rejected (8-0 vote)

**Gambling conducted by fraternal and veterans' organizations.** Prohibit fraternal and veterans' organizations from conducting commercial gambling activities

COUNCIL ACTION:        Rejected (4-1 vote with one abstention)

Definition of gambling. Redefine gambling as an activity in which the outcome is predominantly contingent upon chance

COUNCIL ACTION: Rejected (7-2 vote)

Crane games. Legalize crane games and exempt them from the gambling laws

COUNCIL ACTION: Approved (7-1 vote)

## APPENDIX C

### Gaming Advisory Council Proposed Legislation

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING LAWS OF MONTANA; DEFINING A PER SE ILLEGAL GAMBLING DEVICE OR ENTERPRISE; PROHIBITING LOCAL GOVERNMENTS FROM OBTAINING GAMBLING OPERATOR'S LICENSES EXCEPT UNDER CERTAIN CIRCUMSTANCES; PRORATING GAMBLING PERMIT FEES; ESTABLISHING A SEASONAL OPERATOR'S LICENSE AND PERMITS; PROVIDING FOR CARD GAME TOURNAMENTS; ELIMINATING THE LIVE BINGO AND KENO TAX AND MODIFYING THE LIVE BINGO AND KENO PERMIT FEE; EXPANDING PROVISIONS GOVERNING SPORTS POOLS; AUTHORIZING THE LIVE CARD GAME OF BLACKJACK, VIDEO GAMBLING MACHINE PROMOTIONAL TOURNAMENTS, LIMITED WAGERING IN PUBLIC PLACES, FANTASY SPORTS LEAGUES, AND CRANE GAMES; AMENDING SECTIONS 17-7-502, 23-5-112, 23-5-114, 23-5-115, 23-5-123, 23-5-136, 23-5-154, 23-5-158, 23-5-162, 23-5-176, 23-5-177, 23-5-306, 23-5-308, 23-5-309, 23-5-311 THROUGH 23-5-313, 23-5-406, 23-5-407, 23-5-412, 23-5-413, 23-5-501, 23-5-503, 23-5-602, 23-5-603, 23-5-608, 23-5-610, 23-5-611, 23-5-612, 23-5-621, 23-5-625, 23-5-631, 37-1-203, AND 37-1-205, MCA; REPEALING SECTION 23-5-409, MCA; AND PROVIDING EFFECTIVE AND TERMINATION DATES."

Section 1. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.

(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6) "Card game table" or "table" means a live card game table authorized by permit and made available to the public on the premises of a licensed gambling operator.

(7) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(8) "Department" means the department of justice.

(9) "Distributor" means a person who:

(a) purchases or obtains from another person equipment of any kind for use in gambling activities; and

(b) sells, leases, or otherwise furnishes the equipment to another person for use in public.

(10) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise.

The term does not include the operation of a crane game as governed under [sections 52 through 68].

(11) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(12) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(13) "Gross proceeds" means gross revenue received less prizes paid out.

(14) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department.

(15) "Illegal gambling enterprise" means a gambling enterprise that violates a statute or a rule of the department.

(16) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on

which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(17) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(18) "License" means an operator's, dealer's, or manufacturer-distributor's license issued to a person by the department.

(19) "Licensee" means a person who has received a license from the department.

(20) "Live card game" or "card game" means a card game that is played in public between persons on the premises of a licensed gambling operator.

(21) "Lottery" or "gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

- (a) lotteries authorized under part 10 of this chapter; or
- (b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and

rodeos.

(22) "Manufacturer" means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

(23) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

(24) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(25) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(26) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(27) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access; or

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society,

including a religious or charitable organization.

(28) "Raffle" means a gift enterprise in which each participant buys a chance or chances to win a prize.

(29) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

(30) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

Section 2. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or

permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

~~(3)--"Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers--~~

~~(4)(3) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.~~

(5)(4) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6)(5) "Card game table" or "table" means a live card game table authorized by permit and made available to the public on the premises of a licensed gambling operator.

(7)(6) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(8)(7) "Department" means the department of justice.

(9)(8) "Distributor" means a person who:

(a) purchases or obtains from another person equipment of

any kind for use in gambling activities; and

(b) sells, leases, or otherwise furnishes the equipment to another person for use in public.

(10)(9) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not include the operation of a crane game as governed under [sections 59 through 68].

(11)(10) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(12)(11) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(13)(12) "Gross proceeds" means gross revenue received less prizes paid out.

(14)(13) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department.

(15)(14) "Illegal gambling enterprise" means a gambling enterprise that violates a statute or a rule of the department.

(16)(15) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller using

authorized equipment, shall select selects at random at least 20 numbers out of numbers between 1 and 80, inclusive.

{17}(16) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

{17}(17) "License" means an operator's, dealer's, or manufacturer-distributor's license issued to a person by the department.

{17}(18) "Licensee" means a person who has received a license from the department.

{27}(19) "Live card game" or "card game" means a card game that is played in public between persons on the premises of a licensed gambling operator.

{27}(20) "Lottery" or "gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

- (a) lotteries authorized under part 10 of this chapter; or
- (b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos.

{27}(21) "Manufacturer" means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

{22} "Nonprofit organization" means a nonprofit corporation or charitable, religious, scholastic, educational, veteran's, fraternal, beneficial, civic, or service organization other than one established for the purpose of conducting a gambling activity.

(23) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

{24} "Per se illegal gambling device or enterprise" means a mechanical, electromechanical or electronic device, machine, instrument, apparatus, contrivance, or system of an enterprise that because of its nature, reason for invention, or intended use when designed, constructed, or manufactured is an illegal gambling device or illegal gambling enterprise, regardless of whether the device or enterprise is used in a gambling activity.

{27}(25) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

{27}(26) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including

religious and charitable organizations.

(26)(2) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(27)(2) "Public gambling" means gambling conducted in:

- (a) a place, building, or conveyance to which the public has access or may be permitted to have access; or
- (b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization.

(28)(2) "Raffle" means a gift-enterprise form of lottery in which each participant buys valuable consideration for a chance or chances to win a prize through a random drawing.

(29)(10) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines

authorized under part 6 of this chapter.

(30)(1) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

Section 3. Section 21-5-112, MCA, is amended to read:

"21-5-112. Definitions. Unless the context requires

otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3)--"Authorized equipment" means, with respect to five keno or bingo equipment that may be inspected by the department and that randomly selects the numbers:--

(4)(3) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a



previously designated arrangement of numbers on the bingo card.

(5)(4) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(5) "Blackjack" means a live card game played by a maximum of seven players and one dealer. The object of the game is for a player to obtain a higher total card count than the dealer by reaching twenty-one or as close to twenty-one as possible without exceeding that count.

(6) "Card game table" or "table" means a live card game table authorized by permit and made available to the public on the premises of a licensed gambling operator.

(7) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(8) "Department" means the department of justice.

(9) "Distributor" means a person who:

- (a) purchases or obtains from another person equipment of any kind for use in gambling activities; and
- (b) sells, leases, or otherwise furnishes the equipment to another person for use in public.

(10) "Drop" means the total amount of money that is paid by a player to a dealer to purchase blackjack chips and that is deposited by the dealer in a drop box.

(11) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot,

chance, or the operation of a gambling device or gambling enterprise. The term does not include the operation of a crane game as governed under sections 59 through 68.

(12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(14) "Gross proceeds" means gross revenue received less prizes paid out.

(15) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department.

(16) "Illegal gambling enterprise" means a gambling enterprise that violates a statute or a rule of the department.

(17) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller using authorized equipment shall select subjects at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(18) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(19) "License" means an operator's, dealer's, or

manufacturer-distributor's license issued to a person by the department.

(19)(20) "Licensee" means a person who has received a license from the department.

(20)(21) "Live card game" or "card game" means a game authorized card game that is played in public between persons on the premises of a licensed gambling operator;

(a) between players; or

(b) in the case of blackjack, between a player and a licensed dealer representing an operator.

(21)(22) "Lottery" or "gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

- (a) lotteries authorized under part 10 of this chapter; or
- (b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos.

(22)(23) "Manufacturer" means a person who assembles from raw materials or supports a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

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(24) "Nonprofit organization" means a nonprofit corporation or charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization, other than one established for the purpose of conducting a gambling activity.

(25)(25) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

(26) "Per se illegal gambling device or enterprise" means a mechanical, electromechanical or electronic device, machine, instrument, apparatus, contrivance, or system or an enterprise that because of its nature, reason for invention, or intended use when designed, constructed, or manufactured is an illegal gambling device or illegal gambling enterprise, regardless of whether the device or enterprise is used in a gambling activity.

(27)(27) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(28)(28) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(29)(29) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as

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stated on an operator's license application and approved by the department.

(27)(10) "Public gambling" means gambling conducted in:

- (a) a place, building, or conveyance to which the public has access or may be permitted to have access; or
- (b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization.

(28)(11) "Raffle" means a gift-enterprise form of lottery in which each participant buys pays valuable consideration for a chance or chances to win a prize through a random drawing.

(29)(12) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

(30)(13) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules

of the department."

Section 4. Section 23-5-114, MCA, is amended to read:

**"23-5-114. Department employees -- activities prohibited.**

(1) An employee of the department, ~~a former department employee during the first 365 days following termination of employment, or any peace officer or prosecutor directly involved with the prosecution, investigation, regulation, or licensing of gambling, other than a county attorney,~~ may not:

(1)(a) serve as an employee or officer or a manager of a corporation or organization, ~~other than a nonprofit corporation or organization,~~ that conducts a gambling activity, ~~other than as an officer of a nonprofit organization;~~

(2) ~~receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;~~

(3)(b) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity; or

(c) participate in a gambling activity governed by Title 23, Chapter 4, 5, or 10, except in performing assigned employment duties.

(2) The prohibitions in subsections (1)(a) and (b) apply to a former department employee, other than a county attorney, during the first year following termination from employment with the department, if the employee was directly involved with the

prosecution. investigation, regulation, or licensing of gambling immediately before termination."

Section 5. Section 23-5-115, MCA, is amended to read:

"23-5-115. Powers and duties of department -- licensing.

(1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

(4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6)(a) The department may not make public or otherwise disclose information obtained in the application or tax reporting processes, except for general statistical reporting or studies and as provided in subsection (b)(b).

(b) The department may disclose the following information from a license or permit application:

(i) applicant's name;

(ii) address of the establishment where the gambling activity is to be conducted;

(iii) name of each person having an ownership interest in the establishment; and

(iv) types of permits requested by the applicant.

(7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under parts 1 through 6 of this chapter."

Section 6. Section 21-5-121, MCA, is amended to read:

"21-5-121. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, and confiscated money collected by criminal, civil, or administrative process for as a result of a violation of a provision of parts 1 through 6 of this chapter or a rule of the department must be deposited one-half in the state general fund and one-half in the general fund of the county in which the violation occurred distributed in accordance with:

(1) 1-10-601 or 46-18-212, if collected through a criminal proceeding; or

(2) 21-5-116, if collected through a civil or administrative proceeding."

Section 7. Section 21-5-116, MCA, is amended to read:

"21-5-116. Injunction and other remedies. (1) If a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, the department may:

(a) issue a temporary order to cease and desist from the gambling activity, act, or practice for a period not to exceed 60 days;

(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:

(i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;

(ii) place a licensee on probation;

(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(v) impose a civil penalty not to exceed \$10,000 for each violation, whether or not the person is licensed by the department; and

(vi) impose any combination of the penalties contained in this subsection (1)(b); and

(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:

(i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;

(ii) suspend or revoke a license or permit; and

(iii) appoint a receiver or conservator for the defendant or the assets of the defendant.

(2) In addition to or in lieu of the remedies provided for in subsection (1), the department may issue a warrant for distraint against an operator who fails to pay a civil penalty imposed under subsection (1) or the tax imposed under 23-5-610. The department may issue the warrant for the amount of the unpaid penalty or for the amount of the unpaid tax, plus penalty and accumulated interest on the tax, and shall administer the warrant according to procedures provided in 15-1-701 through 15-1-708.

(2)(3)(a) A civil penalty imposed under this section must be collected by the department and deposited in the state's general fund as required by 23-5-123. The department shall retain one-third of the amount collected and forward the remainder on a quarterly basis to the treasurer of the county or the clerk, financial officer, or treasurer of the city or town in which the violation occurred for deposit in the county or municipal treasury. A county is not entitled to a penalty payment if the violation occurred in an incorporated city or town within the county. The local government portion of the penalty payments are statutorily appropriated to the department, as provided in 17-2-502, for deposit to the county or municipal treasury.

(b) If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and gambling

devices in the state and may be recovered by the department in a civil action."

**NEW SECTION.** Section 8. Possessing per se illegal gambling device or conducting per se illegal gambling enterprise. (1) Except as provided in subsection (3), it is a misdemeanor punishable under 23-5-161 for a person to have in his possession or under his control a per se illegal gambling device or to operate a per se illegal gambling enterprise. Absolute liability as provided in 45-2-104 must be imposed for a violation of this section.

(2) Per se illegal devices or enterprises include but are not limited to:

(a) card games, other than blackjack, involving a bank or fund against which a participant may wager and that receives money or other consideration lost by the participant and pays money or other consideration won by the participant, including the card games of jacks or better, baccarat, and chemin de fer;

(b) dice games in which a participant wagers on the outcome of the roll of one or more die, including craps, hazard, and chuck-a-luck, except for an activity in which a participant shakes for a drink or music;

(c) sports betting, except those activities authorized in Title 21, Chapter 4, Title 23, Chapter 5, parts 2, and 5, and [section 51] in which a person places a wager on the outcome of an athletic event, including bookmaking, parlay bets, sports sweepstakes, and sultan sports cards;

(d) tickets or cards containing concealed numbers or symbols that may match numbers or symbols designated in advance as prize winners, including pull tabs, punchboards, push cards, tip boards, pickle tickets, break-opens, and jar games, except for nongambling promotional activities approved by the department; and

(e) apparatuses, implements, or devices specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps table, casino big six racehorse, money wheels, or slot machine except as provided in 23-5-153.

(3) A per se illegal gambling device may be possessed or located for purposes of display only and not for operation in a public museum owned and operated by the state, a county, or a city.

Section 9. Section 23-5-154, MCA, is amended to read:

**"23-5-154. Soliciting or persuading persons-to-play participation in illegal gambling device activity prohibited.** A person who advertises for or solicits another person to play or engage-in-the participate in an illegal gambling enterprise or use of an illegal gambling device is guilty of a misdemeanor and is punishable under 23-5-161."

Section 10. Section 23-5-158, MCA, is amended to read:

**"23-5-158. Minors not to participate -- penalty -- exception.** (1) A Except as provided in subsection (1), a person may not purposely or knowingly allow a person under 18 years of

age to participate in a gambling activity.

(2) A person who violates this section subsection is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

(2) Except as provided in subsection (1), a person under 18 years of age may not purposely or knowingly participate in a gambling activity. A person who violates this subsection may be fined an amount not to exceed \$50, if the proceedings for violating this subsection are held in justice court. If the proceedings are held in youth court, the offender must be treated as an alleged youth in need of supervision as defined in 41-5-103. The youth court may enter its judgment under 41-5-521.

(3) A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with 23-5-411 if proceeds from the raffle, minus administrative expenses and prizes paid, are used to support charitable activities, scholarships or educational grants, or community service projects."

Section 11. Section 23-5-162, MCA, is amended to read:  
"23-5-162. Criminal liabilities -- felony. (1) A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation.

(2) In addition to any penalty imposed under subsection (1), the department shall revoke all licenses or permits issued

to the person under parts 1 through 6 of this chapter and bar the person from receiving another license or permit under parts 1 through 6 of this chapter."

Section 12. Section 23-5-176, MCA, is amended to read:

"23-5-176. Qualifications for licensure. (1) A person whom the department determines is qualified to receive a license under the provisions of this chapter, except for the provisions of part 10, may, based on information available to, required by, or supplied to the department under department rules, be issued a state gambling license.

(2) The department shall issue a license unless the department can demonstrate that the applicant is:

(a) is a person whose prior activities or criminal record;

(i) poses a threat to the public interest of the state or;

(ii) poses a threat to the effective regulation and control of gambling; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to gambling; or

(b) has been convicted of a felony offense or a gambling-related misdemeanor within 5 years of the date of application, is awaiting trial on charges of committing a felony offense, or is on probation, parole, or deferred prosecution for committing a felony offense; or

(c) is receiving a substantial amount of financing for

the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the provisions of subsection (2)(a) may be considered an unsuitable source.

(1) The provisions of 37-1-201 and 31-1-205 do not apply to licensing determinations made under this section.

Section 13. Section 23-5-177, MCA, is amended to read:

"23-5-177. Operator of gambling establishment -- license -- fee. (1) It is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise.

(2) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table licensed for which a permit has been issued to the operator by the department for play upon the premises, including the type of game and license permit number or decal-number for each licensed game; and

(d) any other relevant information determined necessary by the department.

(1) Regardless of the number of on-premises alcoholic beverage licenses issued for a premises, the department may issue only one operator's license for the premises. The operator's

license must be issued annually along with all other license permits for gambling devices or games licensed issued to the operator.

(4) The operator's license must be updated each time a gambling device or card game table license permit is newly issued or the device or game is removed from the premises.

(5) The department may not charge a fee for the issuance of an operator's license.

(6) The operator's license must be prominently displayed upon the premises for which it is issued."

NEW SECTION. Section 14. Local government prohibition.

(1) Except as provided in subsection (2), the department may not issue an operator's license under 23-5-177 to a city, county, or other political subdivision of the state or to an individual or entity who has leased an alcoholic beverage license from a city, county, or other political subdivision.

(2) An operator's license may be issued to a city, county, or other political subdivision that has obtained a publicly owned golf course beer and wine license under 16-4-109 or an airport all-beverages license under 16-4-208 or to an individual or entity who has leased such license from a city, county, or other political subdivision.

NEW SECTION. Section 15. Seasonal operator's license and permits. (1) The department may issue a seasonal operator's license to a person who chooses to operate a gambling device or gambling enterprise on his premises for 6 consecutive months or



less during any 12-month period. The license expires 6 months after the date it is issued by the department.

(2) Permits issued for gambling devices or gambling enterprises made available for public play under a seasonal operator's license expire on the same date as the seasonal operator's license. Permit fees are equal to one-half the fees charged for the same type of gambling device or gambling enterprise provided for in 23-5-306, 23-5-407, and 23-5-612 and may not be prorated. Fees collected must be distributed in the same proportion and in the same manner as provided for in 23-5-306, 23-5-407, and 23-5-612.

(3) The provisions of 23-5-177 apply to the issuance of a seasonal operator's license and permits.

Section 16. Section 23-5-306, MCA, is amended to read:

**"23-5-306. Live card game table -- permit -- fees -- disposition of fees.** (1)(a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(b) If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on that date to sell food, cigarettes, or any other consumable product, **an operator's license and** an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989, and who

has been granted an operator's license under 23-5-177, except as provided in subsection (1)(c) and (d).

(c) A permit issued under subsection (1)(b) may be renewed annually if a majority of the natural persons holding a financial interest in the business operated on the premises on January 15, 1989, remains the same, except as provided in subsection (1)(d).

(d) The spouse or a child of a person granted a permit under subsection (1)(b) who has acquired controlling financial interest in the business operated on the premises and who has obtained an operator's license under 23-5-177 may be granted a permit and may annually renew the permit if he maintains controlling financial interest in the business. A person seeking a permit under this subsection shall submit to the department sufficient proof as to his relationship to the former permit holder.

(2)(a) The Except as provided in sections 15 and 311, an operator who offers the game of panguingue or poker shall pay the following annual permit fee in lieu of taxes for each live card game table **operated in a licensed operator's premises may not be prorated and must be used to conduct panguingue or poker:**

(a)(i) \$250 for the first table; and

(b)(ii) \$500 for each additional table.

(b) The fee imposed in subsection (2)(a) must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if a live card game table ceases operation before the permit

expires.

(3)(c) The department shall retain for administrative purposes \$100 of the fee collected under this part subsection (2)(a) for each live card game table.

(4)(d) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2)(a) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

(3) A permit fee or tax may not be imposed under this section on an operator who does not offer the game of panguingue or poker.

Section 17. Section 23-5-306, MCA, is amended to read:

"23-5-306. Live card game table -- permit -- fees -- disposition of fees. (1)(a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(b) If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on

that date to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables for conducting games authorized in 23-5-306, except blackjack, may be granted to the person who legally operated the premises on January 15, 1989, and who has been granted an operator's license under 23-5-177, except as provided in subsection (1)(c) and (d).

(c) A permit issued under subsection (1)(b) may be renewed annually if a majority of the natural persons holding a financial interest in the business operated on the premises on January 15, 1989, remains the same, except as provided in subsection (1)(d).

(d) The spouse or a child of a person granted a permit under subsection (1)(b) who has acquired controlling financial interest in the business operated on the premises and who has obtained an operator's license under 23-5-177 may be granted a permit and may annually renew the permit if he maintains controlling financial interest in the business. A person seeking a permit under this subsection shall submit to the department sufficient proof as to his relationship to the former permit holder.

(2)(a) The except as provided in sections 15 and 111, an operator who offers the game of panguingue or poker shall pay the following annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be used to conduct panguingue or poker:

(a)(i) \$250 for the first table; and

~~(b)(1)(i)~~ \$500 for each additional table.

~~(b)~~ The fee imposed in subsection (2)(a) must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if a live card game table ceases operation before the permit expires.

~~(3)(c)~~ The department shall retain for administrative purposes \$100 of the fee collected under ~~this part~~ subsection (2)(a) for each live card game table.

~~(4)(d)~~ The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2)(a) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

~~(1)~~ A permit fee or tax may not be imposed under this section on an operator who does not offer the game of panguingue or poker."

Section 18. Section 23-5-308, MCA, is amended to read:

"23-5-308. Card game dealers -- license. (1) A Except as provided in [section 11], a person may not deal cards in a live card game of panguingue or poker without being licensed annually

by the department.

(2) The fee for the first year in which the license is effective is \$75, and the annual renewal fee is \$25. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

(5) The department shall adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer. The rules must provide that a temporary license may be obtained at the place where a person locally applies for a driver's license and that the receipt received upon mailing an application for a permanent license by certified mail, return receipt requested, also constitutes a temporary license. The department may not assess a fee for the temporary license."

Section 19. Section 23-5-308, MCA, is amended to read:

"23-5-308. Card game dealers -- license. (1) A Except as provided in [section 11], a person may not deal cards in a live card game of blackjack, panguingue, or poker without being licensed annually by the department.

(2) The fee for the first year in which the license is effective is \$75, and the annual renewal fee is \$25. The fee may not be prorated.

(3) The department shall retain for administrative purposes

the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

(5) The department shall adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer. The rules must provide that a temporary license may be obtained at the place where a person locally applies for a driver's license and that the receipt received upon mailing an application for a permanent license by certified mail, return receipt requested, also constitutes a temporary license. The department may not assess a fee for the temporary license."

Section 20. Section 23-5-109, MCA, is amended to read:

"23-5-109. Presence and control of dealer. (1) A Except as provided in [section 31], a live card game may not must be played except on a live card game table in-the-presence-and-under-the control-of-a-licensed-dealer on the premises of a licensed operator.

(2) In addition to meeting the requirements of subsection (1), a live card game of panguingue or poker must be played in the presence and under the control of a licensed dealer."

Section 21. Section 23-5-109, MCA, is amended to read:

"23-5-109. Presence and control of dealer. (1) A Except as provided in [section 31], a live card game may not be played except on a live card game table in-the-presence-and-under-the control-of-a-licensed-dealer on the premises of a licensed

operator.

(2) In addition to meeting the requirements of subsection (1), a live card game of blackjack, panguingue or poker must be played in the presence and under the control of a licensed dealer."

Section 22. Section 23-5-311, MCA, is amended to read:

"23-5-311. Authorized card games. (1) The card games authorized by this part are and are limited to the card games known as blackjack, bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist.

(2) A person may conduct or participate in a live card game or make a live card game table available for public play of a live card game only if it is specifically authorized by this part and described by department rules.

(3) This part does not apply to games simulated on electronic video gambling machines authorized under part 6 of this chapter."

Section 23. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed three hundred dollars. A Except as provided in [section 31], a prize for an individual live card game may not exceed the value of \$1007-games, and games may not be combined in any manner so as to increase the value of the ultimate prize awarded."

Section 24. Section 23-5-111, MCA, is amended to read:

"23-5-111. Rules of play to be posted -- take-off approved -- certain participant fees prohibited. (1) Rules governing the

conduct of each game must be prominently posted within the sight of the players at a live card game table on the premises of a licensed operator. The rules must include notice of the maximum percentage rake-off, if any, and must require that the person taking the rake-off do so in an obvious manner.

(2) An operator conducting a card game other than blackjack, panguingue or poker may not take a rake-off or collect an entrance or administrative fee or any other form of remuneration from a player.

NEW SECTION. Section 25. Limitation on blackjack tables -- permit fee. (1) An operator granted a live game table permit under 23-5-306 may place a maximum of five blackjack tables on his premises.

(2) The operator shall pay to the department a permit fee of \$1,000 for each blackjack table placed on his premises. The department shall retain the permit fee.

NEW SECTION. Section 26. Tax on drop -- records -- quarterly statement and payment -- distribution. (1) An operator issued a live card game table permit under 23-5-306 who operates one or more blackjack tables shall pay to the department a quarterly tax equal to 1% of the nominal value of the drop from the operation of each blackjack table on his premises.

(2) An operator shall keep a record of the drop in the form required by the department. At any time during the operator's business hours, the department may inspect the records and any activity related to the game.

(3) An operator shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total drop from each blackjack table operated by him and the total tax due for the preceding quarter. This statement must contain any other relevant information required by the department.

(4) The department shall retain one-half of the tax collected under this section. Of the remaining amount, the department shall forward one-third to the general fund and two-thirds to the treasurer of the county or clerk, finance officer, or treasurer of the city or town in which the blackjack table is located. A county is not entitled to the local government share of taxes from a blackjack table located in an incorporated city or town. The local government share of the tax collected under this section is statutorily appropriated as provided in 17-7-502 for deposit in the county or municipal treasury.

NEW SECTION. Section 27. Equipment required for blackjack tables. Each blackjack table placed on an operator's premises must be equipped with a double-locking or triple-locking removable metal box, commonly known as a drop box, into which is deposited cash received from players for the purchase of chips. A table must also be equipped with:

(1) a device, commonly known as a dealing shoe, from which cards are dealt and which holds at least two but no more than six shuffled decks of cards; or

(2) a mechanical or electronic shuffling device that

simultaneously shuffles at least two but no more than six decks of cards and provides randomly selected cards for play without dealer participation in the shuffling process.

NEW SECTION. Section 28. Cash wagers and cash gratuities prohibited -- pooling of gratuities required. (1) A wager made by a player at a blackjack table may be made in approved chips only.

(2) A gratuity paid to a dealer by a player at a blackjack table may be made in chips only. Chips received by dealers as gratuities must be pooled and distributed in proportion to the number of hours worked by each dealer.

NEW SECTION. Section 29. Limit on hands played simultaneously -- maximum wager. (1) A player may not play more than two spots at a blackjack table at one time.

(2) The maximum amount of the initial wager made by a player during a hand of blackjack is \$10.

NEW SECTION. Section 30. Rules. The department shall adopt rules for administering [sections 25 through 30]. The rules must address but are not limited to:

- (1) physical characteristics of a blackjack table, drop box, dealing shoe, cards, and chips;
- (2) procedures for converting cash to chips at a blackjack table, including procedures for obtaining chips to ensure the integrity of the tax provided for in [section 26];
- (3) procedures for transporting a drop box and for counting drop box cash;

(4) recordkeeping and tax reporting requirements;

(5) method for dealing cards. The rules must require cards to be dealt face up to players and prohibit players from touching the cards.

(6) play of the game. The rules must:

(i) permit splitting, doubling down, tip betting, and insurance betting;

(ii) prohibit the dealer from receiving another card if the count of his hand equals 17 or greater; and

(iii) allow the player to retain his wager if the count of the dealer's and player's hands is identical.

NEW SECTION. Section 31. Card game tournaments. (1)

Subject to the department's approval, a licensed operator who has a permit for placing at least one live card game table may conduct up to six live card game tournaments a year on his premises. Each tournament may be conducted for a maximum of 10 consecutive days. If an operator conducts more than one tournament a year, at least seven days must lapse between the conclusion of one tournament and the beginning of the next tournament.

(2)(a) At least 10 days before the start of the

tournament, the operator shall submit to the department an application for a tournament permit. The permit application must be accompanied by a \$10 processing fee.

(b) If the tournament is to be conducted on the premises of more than one licensed operator, each operator shall submit a

permit application and processing fee. The permit is applied toward each operator's annual six tournament limit.

(3) Permits for placement of additional live card game tables as provided in 23-5-306 are not required for additional tables authorized under a tournament permit.

(4) Participants must be provided with a copy of the tournament rules before the start of the tournament. A copy of the rules must also be posted in a conspicuous location in the area where the tournament is conducted.

(5) A person must be present on the premises during the tournament to oversee the conduct of the card games and to settle disputes among players. This person need not be a dealer licensed under 23-5-308.

(6) An operator may charge a tournament participant an entry fee, which may include a fee to cover expenses incurred in conducting the tournament. A participant who has been eliminated from competition during the tournament may reenter the tournament by paying an additional fee if permitted to do so under the tournament's rules. A rake-off may not be taken during a card game.

(7) Prizes awarded during a tournament:

(a) may exceed the prize limits provided for in 23-5-312;

(b) are not limited to the total amount collected in entry or other fees; and

(c) must be awarded according to tournament rules.

(8) Unless otherwise provided, laws and rules concerning

live card games also apply to live card games conducted as part of a tournament.

Section 32. Section 23-5-406, MCA, is amended to read:

**"23-5-406. Exempt charitable organizations and facilities.**

(1)(a) An organization ~~qualified for~~ **granted an exemption under** 26 U.S.C. 501(c)(3) and, (c)(4), (c)(8), ~~or (c)(19);~~

(i) on ~~or before~~ January 15, 1989, is exempt from the ~~taxation and license fees permit fee~~ imposed by this part. An ~~organization qualified for exemption under that section~~

(ii) after ~~that date~~ January 15, 1989, is exempt from ~~taxation under, and need only pay one-half the license fees~~ under; permit fee imposed by this part if the organization carries on gambling activities for no more than 60 days a calendar year ~~and it the.~~

(b) ~~An organization provided for in subsection (1)(a) shall;~~

(i) ~~limit its live bingo and keno activities are limited to~~ its main premises or place of operations and to events at other places operated by other charitable organizations or by a government unit or entity; ~~the organization shall;~~

(ii) comply with other statutes and rules relating to the operation of live bingo and keno ~~or raffles; a qualified organization shall; and~~

(iii) apply to the department for an operator's license and a ~~cost-free~~ permit to conduct charitable live bingo and or keno games ~~or raffles.~~

(2) A long-term care facility as defined in 50-5-101 or a retirement home or senior citizen center as defined in subsection (4) that has obtained an operator's license and a permit from the department to operate live bingo or keno is exempt from the permit fee imposed by this part if the facility:

(a) limits participation in live bingo and keno games to its residents and residents' guests, if applicable;

(b) limits live bingo or keno activities to its main

premises or place of operation; and

(c) complies with other statutes and rules relating to the operation of live bingo and keno.

(1) The department may revoke or suspend the permit of a

qualified an organization or a facility provided for in

subsection (1) or (2) if that, after investigation, the

department determines that the organization or facility is

contracting operating or has contracted with a nonqualified

organization to operate that is operating live bingo or keno, or raffles, in a predominantly commercial manner.

(4) For the purpose of this section:

(a) "Retirement home" means a building in which sleeping rooms without separate cooking facilities are rented to three or more persons who are 60 years of age or older and who do not need skilled nursing care, intermediate nursing care, or personal nursing care, as defined in 50-5-101.

(b) "Senior citizen center" means a facility operated by a nonprofit organization that provides services to senior citizens

in the form of daytime or evening educational or recreational activities and does not provide living accommodations to such citizens or sell food or beverages under a license furnished by the state. Services qualifying under this section must be recognized in the state plan on aging adopted by the department of family services."

Section 13. Section 23-5-407, MCA, is amended to read:

"23-5-407. Live bingo or keno permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license may be granted an annual permit by the department to conduct live bingo or keno games on specified premises. The permit expires June 30 of each year.

(2) The Except as provided in (section 15), the permit fee for each of the premises in which a live bingo or keno game is conducted may not be prorated and must be \$500 is \$250.

(3) Except as provided in (section 15), the permit fee for each premises in which a live bingo game is conducted is:

(a) \$250, if any game conducted by the operator has less than 50 players;

(b) \$1,500, if any game conducted by the operator has 50 or more players but less than 100; and

(c) \$1,000, if any game conducted by the operator has 100 or more players.

(4) A fee collected under this section must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if



a live bingo or keno game ceases operation before the permit expires.

(3)(5) The department shall retain the permit fee for administrative costs."

Section 34. Section 23-5-412, MCA, is amended to read:

23-5-412. Card prices and prizes -- exception. The (1) Except as provided in subsection (3):

(a) the price for an individual bingo or keno card may not exceed 50 cents--Bingo prizes may be paid in either tangible personal property or cash--A:

(b) a prize may not exceed the value of \$100 for each individual bingo award or \$800 for each keno card--It and

(c) it is unlawful to, in any manner, combine any awards so as to increase the ultimate value of the award.

(2) Bingo and keno prizes may be paid in either tangible personal property or cash.

(3) A variation of the game of keno in which a player selects three or more numbers and places a wager on various combinations of these numbers is permissible if:

(a) no more than 50 cents is wagered on each combination of numbers; and

(b) a winning combination does not pay off more than \$800.

(4) A player may give the a keno caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of

the price per game times the number of successive games indicated. The player shall remain on the house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won."

Section 35. Section 23-5-413, MCA, is amended to read:

"23-5-413. Raffle prizes -- permits -- exception. (1) Raffle prizes may not exceed the value of \$5,000 for each individual raffle ticket--It is unlawful to, in any manner, combine any awards so as to increase the ultimate value of the prize awarded for each ticket--

(2)(1) A separate permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle may be conducted. The board of county commissioners may not charge a permit fee or an investigative fee for a raffle conducted by a religious corporation sole or nonprofit organization if the organization presents sufficient documentation of its nonprofit status.

(2) Except for a religious corporation sole or nonprofit organization, a person or organization conducting a raffle shall own all prizes to be awarded as part of the raffle before the sale of any tickets.

(3) A person who has conducted a raffle must submit an accounting to the board of county commissioners within 30 days

following the completion of the raffle.

(4) The sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confines of the state.

(5) The value of a prize awarded for an individual ticket for a raffle conducted by a person or an organization, other than a religious corporation sole or nonprofit organization as defined in 21-5-112, may not exceed \$5,000. The prize may be in the form of cash, other intangible personal property, tangible personal property, or real property. Prizes may not be combined in any manner so as to increase the ultimate value of the prize awarded for each ticket.

(3)(a)--The restrictions of subsection (1) do not apply to a raffle conducted by a (6)(a) in addition to complying with the requirements of subsections (1) through (4), a nonprofit corporation; religious corporation sole; or other nonprofit organization as defined in 21-5-112 if the corporation or organization is permitted by the board of county commissioners to conduct the raffle. The board of county commissioners may not charge a permit fee or an investigative fee for a raffle conducted by a nonprofit veterans' organization.

(b)--The nonprofit organization or corporation seeking permission under subsection (3)(a) shall apply provide the following information to the board of county commissioners when applying for the a raffle permit and provide the following information:

(i) the cost and number of raffle tickets to be sold;  
(ii) the charitable purposes the proceeds of the raffle are intended to benefit; and  
(iii) the proposed prizes and their value.  
(c)--A veterans' organization seeking exemption from the permit fee or an investigative fee shall present evidence of the organization's nonprofit status to the board of county commissioners.

(d)(b) The proceeds from the sale of the raffle tickets for a raffle conducted by a religious corporation sole or a nonprofit organization may be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds Proceeds may not be used for the administrative cost of conducting the raffle.

(e) The value of a prize awarded for an individual ticket for a raffle conducted by a religious corporation sole or nonprofit organization may equal or exceed \$5,000 if the prize is in the form of tangible personal property. If the value of the prize is less than \$5,000, the prize may be in the form of cash, other intangible personal property, tangible personal property, or real property."

Section 36. Section 21-5-501, MCA, is amended to read:

"21-5-501. **Definitions Definition.** As used in this part, unless the context clearly requires otherwise, the following

**definitions apply:-**

(1)---"Nonprofit organization" means a charitable, religious, scholastic, educational, veterans', fraternal, beneficiary, civic, or service organization, other than one established for the purpose of conducting or participating in a sports pool;--

(2)---"Sports "sports pool" means a card divided into squares or spaces, with the names of the participants in the pool written within such squares or spaces, for gambling activity, other than an activity governed by Title 23, Chapter 4 or Title

23, Chapter 5, part 2, in which consideration in a person wagers money is paid by the person playing for each square or space for the chance to win money or other items of value based on any the outcome of a sports event or series of sports events wherein the participants competitors in such sports event are natural persons or animals."

**NEW SECTION.** Section 37. Sports pool design -- department rules -- use of illegal gambling device prohibited. (1) A sports pool must be designed to ensure that:

- (a) there is at least one winner from among the participants in the pool; and
  - (b) each participant has an equal chance to win the pool.
- (2) Competitors in a sports event or series of sports events may be randomly assigned to each participant in the sports pool or selected by the participants.

(1) The department shall by rule describe the types of sports pools authorized by this part. Variations in the

authorized sports pools must be submitted to the department for review and approval before they are made available for public play.

(4) An illegal gambling device may not be used in conducting a sports pool.

Section 38. Section 23-5-503, MCA, is amended to read:

"23-5-503. Rules. (1) The card or other device used for recording the sports pool and upon which the squares or spaces appear shall must clearly indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event or series of events, the consideration to be paid for each chance, and the total amount or percentage to be paid to the winners.

(2) A chance to participate in a sports pool may not be sold other than upon the premises in which the sports pool is conducted. -- An individual each chance to participate in a sports pool may not must be sold for a consideration in excess of the same amount, which may not exceed \$5, and the total amount to be paid to the all winners of any individual sports pool may not exceed the value of \$500.

(3)(a) Except as provided in subsection (3)(b), the winner winners of any sports pool shall receive a 100% payout of the value of the sports pool.

(3)(b) A nonprofit organization that maintains and opens to inspection upon reasonable demand records to verify that the retained portion is used to support charitable activities,

scholarships or educational grants, or community service projects may retain up to 50% of the value of a sports pool.

(2) A person or organization conducting a sports pool may

not:

(a) retain any portion of the amount wagered in the sports pool, except as provided in subsection (1)(b);

(b) charge a fee for participating in the sports pool;

(c) compete with participants for any part of the winnings from the sports pool, except for purchasing chances to

participate in sports pool; or

(d) use the sports pool in any manner to establish odds or handicaps or to allow betting or booking against the person or organization conducting the pool."

Section 19. Section 23-5-602, MCA, is amended to read:

23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video gambling machine or promotional device, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the

player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(4) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(5) "Machine gross income" means money put into a video gambling machine minus credits paid out in cash.

(6) "Promotional device" means a contrivance that temporarily modifies a bingo, draw poker, or keno machine to permit play without insertion of cash.

(7) "Promotional tournament" means an activity conducted by a licensed operator in which two or more players compete against each other for a defined period of time by playing one or more video gambling machines that have been modified by a promotional device.

(6)(8) "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, or supplies video gambling machines, promotional devices, or associated equipment for sale, use, or distribution in the state."

Section 40. Section 23-5-603, MCA, is amended to read:

"23-5-603. Video gambling machines -- possession -- play -- restriction. (1) A person An operator may make available for public play only the number of approved video gambling machines specifically authorized by this part.

(2) The video gambling machines specifically authorized by this part are bingo, keno, and draw poker machines. Only the number of approved machines for which permits have been granted under 23-5-612 may be made available for play by the public on the premises of a licensed operator. The department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is approved under the permit provisions of this part. A fee may not be charged for the replacement machine.

(3) Machines on premises licensed to sell alcoholic beverages for on-premises consumption on-the-premises must be placed;

(a) in the a room, area, or other part of the premises in which the alcoholic beverages are permitted to be sold and normally or consumed as determined by the department of revenue when issuing the alcoholic beverages license; and

(b) within sight and control of the operator or the operator's employees for the purpose of restricting access to the machines by persons under 18 years of age."

Section 41. Section 23-5-608, MCA, is amended to read:

"23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash. (1) A video gambling machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the following amounts:--

(a) ~~-\$100--a game for a video draw poker machine; and-~~

(b) \$800 a game ~~for a video keno or bingo machine.~~

(2) A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher."

Section 42. Section 23-5-610, MCA, is amended to read:

"23-5-610. Video gambling machine net gross income tax -- records -- distribution -- quarterly statement and payment. (1) An operator issued a permit under this part shall pay to the department a video gambling machine tax of 15% of net-machine the gross income from each video gambling machine licensed under this part.

(2) An operator issued a permit under this part shall keep a record of ~~net-machine~~ the gross income from each machine in such form as the department may require. The records must at all

times during the business hours of the licensee be subject to inspection by the department.

(3) An operator issued a permit under this part shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total net machine gross income from each video gambling machine licensed to him, together with the total amount due the state as video gambling machine net gross income tax for the preceding quarter. The statement must contain other relevant information as the department may require.

(4) (a) The department shall forward one-third of the tax collected under subsection (3) to the general fund.

(b) The department shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling machines located in incorporated cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury."

Section 43. Section 21-5-611, MCA, is amended to read:

"21-5-611. Machine permit qualifications -- limitations.

(1)(a) A person who has been granted an operator's license under 21-5-177 and a license to sell alcoholic beverages for

consumption on the premises may be granted a permit for the placement of video gambling machines in his premises.

(b) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 21-5-177, a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date, except as provided in subsection (1)(d) and (e).

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 21-5-177 may be granted a permit for the placement of bingo and keno machines in his premises, except as provided in subsection (1)(d) and (e).

(d) A permit issued under subsection (1)(b) or (c) may be renewed annually if a majority of the natural persons holding a financial interest in the business operated on the premises on January 15, 1989, remain the same, except as provided in subsection (1)(e).

(e) The spouse or a child of a person granted a permit under subsection (1)(b) or (c) who has acquired controlling financial interest in the business operated on the premises and who has obtained an operator's license under 21-5-177 may be

granted a permit and may annually renew the permit if he maintains controlling financial interest in the business. A person seeking a permit under this subsection shall submit to the department sufficient proof as to his relationship to the former permit holder.

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of 23-5-176.

(3) A licensee may not have on the premises or make available for play on the premises more than 20 machines of any combination and no more than 10 may be draw poker machines.

Section 44. Section 23-5-612, MCA, is amended to read:  
"23-5-612. (Effective July 1, 1990) Machine permits -- fee.

(1) The department, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator a annual permit for an approved video gambling machine.

(2) The Except as provided in (section 15), the department shall charge an annual permit fee of \$200 for each video gambling machine permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if the video gambling machine ceases operation before the permit expires.

(3) The department shall retain 50% of the total permit fee collected under subsection (2) for purposes of administering this part. The balance must be returned on a quarterly basis to

the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury.

(3) ~~The permit expires on June 30 of each year, and the fee may not be prorated.~~

(4) ~~A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 (as that section read on September 30, 1989) if the applicant for license can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989.~~

Section 45. Section 23-5-621, MCA, is amended to read:

"23-5-621. Video gambling machine specifications -- rules.

(1) The department shall adopt rules describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part. The specifications in the rules must substantially follow the specifications contained in 23-5-606 and 23-5-609 as those sections read on September 30, 1989. Rules adopted by the department, at a minimum, must provide that a video gambling machine:

(a) ~~offer a game that is authorized by law;~~

(b) ~~use a random selection process to determine the outcome~~

Section 46. Section 23-5-625, MCA, is amended to read:

(c) accept coins and/or currency only;

(d) be permitted to contain a mechanism that accepts cash in the form of bills not to exceed \$20;

(e) prevent access to the machine except through locks;

(f) use a printer device to print a ticket voucher for the player upon completion of play. The printer device must create a duplicate copy of tickets printed, which must be retained in the machine;

(g) has both electronic and mechanical meters. The electronic meter readings must be able to be printed by the printing device and displayed on the video screen;

(h) has a nonremovable identification plate providing the manufacturer's name, machine model, date of manufacture, and unique machine serial number;

(i) use a surge protector;

(j) issue, by activation of an external switch, an accounting ticket containing a performance synopsis of the machine;

(k) has nonvolatile memory storage for all required accounting ticket information; and

(l) exhibit total immunity to human body electrostatic discharges.

(2) The department shall adopt rules allowing video gambling machines to be imported into this state and used for the purposes of trade shows, exhibitions, and similar activities."

"23-5-625. Video gambling machine manufacturer-distributor -- license -- fees. (1) It (a) Except as provided in subsections (2) and (3), it is unlawful for any person to assemble, produce, manufacture, or supply any video gambling machine, promotional device, or associated equipment for use or play in the state without having first been issued a video gambling machine manufacturer-distributor's license by the department. A licensed manufacturer-distributor may supply a video gambling machine only to another licensed manufacturer-distributor or a licensed operator.

(2)(b) The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license.

(3)(c) In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4)(d) All video gambling machine manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5)(e) The department shall retain the license and processing fees collected for purposes of administering this part, unless otherwise provided.

(2) A licensed operator may sell up to 10 video gambling



machines in a calendar year if the operator:

- (a) had obtained permits for the machines and legally operated them prior to the sale; and
- (b) sells the machines to another licensed operator or a licensed manufacturer-distributor.
- (3) A lien holder who acquires title to video gambling machines through a foreclosure action involving a licensed operator or manufacturer-distributor may sell the machines to a licensed operator or licensed manufacturer-distributor."

Section 47. Section 23-5-631, MCA, is amended to read:

"23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video gambling machine, promotional device, and associated equipment which are manufactured, sold, or distributed for use in the state before the video gambling machine or associated equipment is sold, played, or used.

(2) A video gambling machine, promotional device, or associated equipment may not be examined or approved by the department until the video gambling machine manufacturer-distributor is licensed as required in 23-5-625.

(1) All video gambling machines approved by the department of commerce prior to October 1, 1989, must be considered approved under this part.

(4) The department shall require the manufacturer-distributor seeking the examination and approval of a new video

gambling machine, promotional device, or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine or promotional device prior to its distribution and placement for play by the public."

NEW SECTION. Section 48. Promotional tournaments. (1) A licensed operator may apply to the department for a permit to conduct a promotional tournament. The application for a promotional tournament permit must be submitted to the department at least 20 days before the scheduled start of the tournament and must be accompanied by a \$30 fee. The department shall retain the fee to cover the cost of processing the permit.

(2) Each video gambling machine used in a promotional tournament must have a permit as provided in 23-5-612 and is subject to the limitations provided in 23-5-611(3).

(3) An operator may not charge a player a fee to participate in a promotional tournament.

(4) An operator shall provide each player with a copy of the tournament rules before the start of the promotional tournament. A copy of the rules also must be prominently posted in a conspicuous location in the area where the tournament is conducted.

(5) Prizes awarded during a promotional tournament may exceed the prize limits provided for in 23-5-608.

(6) The department shall adopt rules for the conduct of promotional tournaments. The rules must address but are not limited to:

- (a) tournament permit procedures and application form;
- (b) promotional device approval procedures and application form; and
- (c) specifications for promotional devices.

Section 49. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations--definition--

requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-201; 10-1-112; 10-3-114; 10-4-301; 13-37-104; 15-1-111; 15-25-121; 15-

31-702; 15-36-112; 15-37-117; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-611; 90-6-331; 90-9-106; and section 13, House Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments.

Section 50. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations--definition--

requisites for validity. (1) A statutory appropriation is an

appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-161; 21-5-116; 23-5-306; [section 26]; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws

of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments.

Section 51. Section 37-1-203, MCA, is amended to read:

"37-1-203. Conviction not a sole basis for denial.

Criminal convictions shall not operate as an automatic bar to being licensed to enter any occupation in the state of Montana. ~~No Except as provided in 23-5-176, a licensing authority shall refuse to license a person solely on the basis of a previous criminal conviction; provided, however, where a license applicant has been convicted of a criminal offense and such criminal offense relates to the public health, welfare, and safety as it applies to the occupation for which the license is sought, the licensing agency may, after investigation, find that the applicant so convicted has not been sufficiently rehabilitated as to warrant the public trust and deny the issuance of a license."~~

Section 52. Section 37-1-205, MCA, is amended to read:

"37-1-205. Licensure on completion of supervision.

Completion of probation or parole supervision without any subsequent criminal conviction shall be evidence of rehabilitation; provided, however, that the facts surrounding the situation that led to the probation or parole supervision may be considered as they relate to the occupation for which a license is sought ~~and provided that~~. ~~Except as provided in 23-5-176,~~

nothing herein shall be construed to prohibit licensure of a person while he is under state supervision if the licensing agency finds insufficient evidence to preclude such licensure."

**NEW SECTION. Section 53. Wagering between persons. (1)**

Two or more natural persons in a public place may wager or bet against each other on the outcome of a contest, exhibition, or other event in which they are not participants if:

- (a) the persons are physically in the presence of each other at the time the wagers or bets are placed, and no person is serving as an agent for another person;
- (b) no person, including an operator, receives or has a right to receive, directly or indirectly, a profit, remuneration, or compensation from the wagering or betting, except any amount that the person may win as a participant on the same basis as other participants; and
- (c) the wagering or betting activity is conducted in a fair and honest manner and is not designed, devised, or adapted to permit predetermination of the winner or prevent a person from winning.

- (2) An operator may hold wagers or bets placed by persons under subsection (1) until completion of the contest, exhibition, or other event.

(1) This section does not apply to gambling activities conducted under Title 23, chapter 4 or Title 21, chapter 5, parts 2 or 3.

**NEW SECTION. Section 54. Fantasy sports leagues defined.**

As used in [sections 54 through 58], a "fantasy sports league" means a gambling activity conducted in the following manner:

(1) A fantasy sports league consists of a limited number of persons or groups of persons who pay an entrance fee for membership in the league. The entrance fee may include an administrative fee.

(2) Each league member creates a fictitious team composed of athletes from a given professional sport, such as baseball, basketball, or football. Player selection is conducted through random drawings or a bidding process.

(3) After the initial teams are selected, interim replacement of players may occur by trade or purchase. A specific fee, which may not exceed the total entrance fee, is charged for each transaction.

(4) A method, as defined by league rules, is devised to permit each team to compete against other teams in the league. Points are awarded to a team according to the performance of individual players or teams or both during a designated time period.

(5) A member may be eligible to receive a payout based on the number of points accumulated. Payouts, which may be in the form of cash or prizes, are awarded according to league rules.

(6) Rules governing the conduct of the fantasy league must be provided in writing to each member.

**NEW SECTION. Section 55. Fantasy sports leagues authorized.**

It is lawful to conduct or participate in a fantasy sports league

as defined in and governed by [sections 54 through 58].

NEW SECTION. Section 56. Payouts -- administrative fees charged by commercial establishments. (1) The total value of payouts to all league members must equal the amount collected for entrance, administrative, and transactions fees, minus payment for administrative expenses.

(2) If a commercial establishment charges an administrative fee for conducting a fantasy sports league, the fee per participant may not be more than 15% of the amount charged as a participant's entrance fee.

NEW SECTION. Section 57. Sports betting prohibited -- applicability. [Sections 54 through 58] do not:

- (1) authorize betting or wagering on the outcome of an individual sports event; or
- (2) apply to gambling activities governed under Title 23, chapter 4 or Title 23, chapter 5, parts 2 and 5.

NEW SECTION. Section 58. Violations. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of [sections 54 through 58] is guilty of a misdemeanor punishable under 21-5-161.

NEW SECTION. Section 59. Definitions. Unless the context requires otherwise, the following definitions apply to [sections 59 through 68]:

(1) "Crane game" means a device activated by the insertion of a coin or token by which the player uses one or more buttons, control sticks, or similar means of control or a combination of

those means of control to position a mechanical or electromechanical claw or other retrieval device over a prize and attempts to retrieve it.

(2) "Department" means the department of justice as provided for in 2-15-2001.

(3) "Person" means a natural or artificial person, partnership, corporation, or association.

NEW SECTION. Section 60. License and permit required. A person may not make a crane game available for public play in this state without obtaining an annual crane game operator's license and an annual crane game permit.

NEW SECTION. Section 61. License application procedure.

(1) To obtain a crane game operator's license, a person shall submit a completed application on a form prescribed and furnished by the department and any other relevant information requested.

(2) The department may approve or deny an application submitted under subsection (1).

(3) If the application is approved, the department shall issue to the applicant a crane game operator's license. The department may place reasonable conditions on the license.

(4) A crane game operator's license is effective January 1 through December 31 and must be renewed annually.

NEW SECTION. Section 62. Crane game permit -- fee. (1) After obtaining a crane game operator's license under [section 61], a licensee shall annually apply to the department on a form prescribed and furnished by the department for a permit for each

crane game he intends to make available for public play. The application must specify the location where the crane game is to be located. A permit fee of \$15 must accompany the application.

(2) The department may approve or deny an application submitted under subsection (1).

(3) If the application is approved, the department shall issue to the applicant a crane game permit, which must be affixed to the game. The permit is effective January 1 through December 31 and must be renewed annually.

(4) The permit fee collected under this section may not be prorated and is retained by the department upon issuance of a crane game permit.

(5) If a crane game is moved from the location specified in the permit application, the operator shall notify the department of the new location.

NEW SECTION. Section 63. Crane game requirements. A crane game may be made available for public play if:

(1) a license and permit is obtained under [sections 59 and 68];

(2) the fee paid for the right to play the crane game does not exceed an amount set by rule by the department;

(3) a cash prize is not awarded and a merchandise prize is not redeemable for cash;

(4) the system for awarding prizes does not require forfeiture of a previously won prize unless the prize is traded for a prize of equal or greater value;

(5) the claw or retrieval device within the crane game is capable of reaching, lifting, and dispensing all prizes within the machine;

(6) the controls for the crane game are clearly labelled as to function and instructions for operating the game are conspicuously posted; and

(7) the crane game does not contain a variable resistor or any turn screw, knob, potentiometer, or similar device that may be used to alter the closing strength of the game's claw or retrieval device.

NEW SECTION. Section 64. Rules. The department shall adopt rules to implement [sections 59 through 68]. The rules must address, but are not limited to, license and permit procedures and inspection of crane games.

NEW SECTION. Section 65. Authority of local governments. A local government may not license or regulate an amusement game governed under [sections 59 through 68] or assess or charge any fees or taxes unless specifically authorized by statute.

NEW SECTION. Section 66. Violations. (1) A person who purposely or knowingly violates or who procures, aids, or abets in a violation of [sections 59 through 68] is guilty of a misdemeanor punishable by a fine not exceeding \$10,000 or imprisonment in the county jail for a term not to exceed 1 year or both such fine and imprisonment.

(2) A violation of [sections 59 through 68] also may be construed as violation of 45-6-101 or 45-6-118.

(3) A penalty imposed under this section may be in addition to a penalty imposed under [section 67].

NEW SECTION. Section 67. Prosecution. A violation of [sections 59 through 68] or a department rule must be prosecuted in the same manner as provided in 23-5-172.

NEW SECTION. Section 68. Administrative remedies -- judicial review. (1) If a person has engaged or is engaging in an act or practice in violation of [sections 59 through 68] or a department rule or order, the department may exercise any of the administrative remedies provided for 23-5-136 in response to the violation regarding the conducting of amusement games.

(2) A person aggrieved by a final order of the department may obtain a review of the order in district court in accordance with 23-5-137.

NEW SECTION. Section 69. Repealer. Section 23-5-409, MCA, is repealed.

NEW SECTION. Section 70. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 71. Codification instruction. (1) [Sections 8, 14, 15, 31, 37, 48, and 53 through 58] are intended to be codified as an integral part of Title 23, chapter 5, parts 1 through 6, and the provisions of Title 23, chapter 5, parts 1 through 6, apply to [sections 8, 14, 15, 31, 37, 48, and 53 through 58].

(2) [Sections 25 through 30] are intended to be codified as

an integral part of Title 23, chapter 5, part 3, and the provisions of Title 23, chapter 5, part 3, apply to [sections 25 through 30].

NEW SECTION. Section 72. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 73. Effective dates -- termination date. (1)(a) [Sections 1, 30, 59 through 68, 70 through 72, and this section] are effective on passage and approval.

(b) [Sections 32, 33, and 69] are effective July 1, 1991.

(c) [Sections 3, 12, 17, 19, 21, 22, 25 through 29, and 50 through 52] are effective January 1, 1992.

(d) The remaining sections are effective October 1, 1991.

(2) [Sections 1 and 59 through 68] terminate December 31, 1993.

- END -

